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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/534,148	01/10/2006	Adam Richard Yaffe	W004 P01180-US	4854
	7590 06/09/200 SEPHS & HOLMES, I	EXAMINER		
101 DYER STI		SMALLEY, JAMES N		
5TH FLOOR PROVIDENCE	ERI 02903	ART UNIT	PAPER NUMBER	
THO TIDIATE	, 111 023 03	3781		
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			06/09/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Application No.	Applicant(s)		
10/534,148	YAFFE ET AL.		
Examiner	Art Unit		
JAMES N. SMALLEY	3781		

JAMES N. SMALLEY 3781 .	Office Action Summary	Examiner	Art Unit						
Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. - Entensions of time may be available under the provisions of 37 CFR 1.136(a). In or event, however, may a risply be timely filled. - Fillower for reply is specification above, the maximum statehop provide largely and wite onges X(6) MONTHS from the maxing date of this communication. - Fillower for reply is specificate above, the maximum statehop provide largely and wite onges X(6) MONTHS from the maximing date of this communication. - Fillower for reply is specificate above, the maximum statehop provide largely and wite onges X(6) MONTHS from the maximing date of this communication. - Fillower for reply with provide and pay and with one X(6) X(6) MONTHS from the maximing date of this communication. - Fillower for reply with provide and pay and with one X(6) X(6) MONTHS from the maximing date of this communication. - Fillower for reply with the provide of the maximing date of this communication. - Fillower for reply with provide and pay and with one X(6) X(6) MONTHS from the maximing date of this communication. - Fillower for reply with provide and pay and with one X(6) X(6) MONTHS from the maximing date of this communication. - Fillower for reply with provide and pay and with one X(6) X(6) MONTHS from the pay and the pa		JAMES N. SMALLEY	3781						
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11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152. Priority under 35 U.S.C. § 119 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some color None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No. 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. Attachment(s) 1) Notice of Preferences Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information-Disclaruse Statement(s) (PTO-948) 5) Notice of Informatic Patent Aft (Patenton)	Applicant may not request that any objection to the	drawing(s) be held in abeyance. See	e 37 CFR 1.85(a).						
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Application/Control Number: 10/534,148

Art Unit: 3781

DETAILED ACTION

Response to Amendment

The previous grounds of rejection have been withdrawn and new grounds are presented herein.
 Accordingly, this action is Non-Final.

Drawings

The drawings are objected to under 37 CFR 1.83(b) because they are incomplete. 37 CFR 1.83(b) reads as follows:

When the invention consists of an improvement on an old machine the drawing must when possible exhibit, in one or more views, the improved portion itself, disconnected from the old structure, and also in another view, so much only of the old structure as will suffice to show the connection of the invention therewith.

Figure 3 shows an incomplete view of the ramp surface. It is not clear from the drawings that ramp (19) is connected to the top surface of the container. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

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Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it petrains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 27-32 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The claims limit "a dispense aperture." The Specification does not enable a second dispense aperture, beyond the aperture already introduced in claim 9. It is suggested Applicant amend the claim to state "said aperture." Examiner notes the term "dispense aperture" is not used in claim 9, just "aperture."

Claim Rejections - 35 USC § 102

 The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- Claims 9, 11, 13-15, 17, 19-21, 23-24, 26-27, 29-30 and 32 are rejected under 35 U.S.C. 102(b) as being anticipated by DeMars et al. US 4.951,835.

DeMars '835 teaches a container having an opening mechanism, comprising an opening member (46), an aperture (50), and a shaped member (48) formed on the container, with a ramp surface to urge the opening member into sealing contact with the aperture.

Claim Rejections - 35 USC § 103

 The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action: Application/Control Number: 10/534,148

Art Unit: 3781

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior at are such that the subject matter as all whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 9-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilson US
 442 950 in view of DeMars et al. US 4 951 835

Wilson '950 teaches a container (C), a pull ring (52), an aperture (defined by 20, 28).

The reference teaches all limitations substantially as claimed, but fails to teach a shaped member, which further includes a ramped surface, to urge part of the opening member into sealing contact with the aperture.

DeMars '835 teaches a shaped member on the upper surface of the container, which further includes a ramped surface, to urge a shaped member into sealing contact with a container aperture.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the container of Wilson '950, providing the shaped member of DeMars '835, motivated by the benefit of a structure which will force the shaped member into sealing contact with the aperture.

Claims 9-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilson US
 4.442 950 in view of Wells US 4.887.712.

Wells '712 teaches a container (43), a pull ring (40), an aperture (defined by 27, 28).

The reference teaches all limitations substantially as claimed, but fails to teach a shaped member, which further includes a ramped surface, to urge part of the opening member into sealing contact with the aperture.

DeMars '835 teaches a shaped member on the upper surface of the container, which further includes a ramped surface, to urge a shaped member into sealing contact with a container aperture.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the container of Wells '712, providing the shaped member of DeMars '835, motivated by the benefit of a structure which will force the shaped member into sealing contact with the aperture. Art Unit: 3781

Response to Arguments

10. Applicant's arguments with respect to claims 9-32 have been considered but are moot in view of

the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should

be directed to JAMES N. SMALLEY whose telephone number is (571)272-4547. The examiner can

normally be reached on Monday - Friday 10 am - 7 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor,

Anthony Stashick can be reached on (571) 272-4561. The fax phone number for the organization where

this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application

Information Retrieval (PAIR) system. Status information for published applications may be obtained from

either Private PAIR or Public PAIR. Status information for unpublished applications is available through

 $\label{eq:pair_approx} \textbf{Private PAIR only}. \ \ \textbf{For more information about the PAIR system}, see \ \textbf{http://pair-direct.uspto.gov}. \ \ \textbf{Should}$

you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC)

at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative $\frac{1}{2}$

or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-

1000

/Anthony D Stashick/ Supervisory Patent Examiner, Art Unit

3781

/James N Smalley/

Examiner, Art Unit 3781